THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 02.04.2007

+ **WP(C) No.18156/2006**

M/S TOYO ENGINEERING (INDIA) LTD. ...Petitioner

- versus -

UCO BANK & ANOTHER ...Respondents

Advocates who appeared in this case:
For the Petitioner : Mr O. N. Vohra, Sr Advocate with Ms Shraddha Bhargava
For the Respondent/Bank : Mr Rajesh Rattan

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. This petition is directed against the judgment dated 30.11.2006 passed by the learned Additional District Judge, New Delhi in an appeal under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the said Act'). The said appeal was preferred against the order dated 08.04.2005 passed by the Estate Officer.

2. The premises in question is situated on the First Floor of the UCO Bank Building at 5, Parliament Street, New Delhi. The said premises has an area of 2405 sq. ft. The same was leased out to M/s Mitsui & Company by a

lease deed dated 15.10.1970 by UCO Bank for a period of five years w.e.f. 01.10.1968 to 01.10.1973. The lease permitted induction of a sub-tenant and the petitioner [M/s Toyo Engineering (India) Ltd] was inducted as a sub-tenant by M/s Mitsui and Company. The leased expired on 01.10.1973. No further lease was executed by UCO Bank. However, it continued to accept rents. By a letter dated 17.12.1975, M/s Mitsui and Company conveyed to UCO Bank that it had authorised the petitioner to pay rent for the said premises on its behalf. A notice of termination of tenancy under Section 106 of the Transfer of Property Act, 1882 was issued by UCO Bank on 15.10.1991 and served upon M/s Mitsui and Company as well as on the petitioner. The petitioner replied to the said notice on 09.12.1991 admitting that it was a sub-tenant of M/s Mitsui & Company. Thereafter, proceedings under the said Act were initiated against M/s Mitsui & Company. The Estate Officer passed an order on 20.09.2001 directing the eviction of M/s Mitsui & Company.

3. It so happened that both M/s Mitsui & Company as well as the petitioner preferred separate appeals against the said order dated 20.09.2001 passed by the Estate Officer. These appeals were disposed of by the learned Additional District Judge by a common order dated 15.03.2003. The appeal filed by M/s Mitsui & Company was dismissed, whereas the appeal filed by the petitioner was allowed on the ground that no notice under Section 4 of the said Act had been served upon the petitioner.

4. Thereafter, the respondent [UCO Bank] served a fresh notice of termination dated 13.05.2003 on the petitioner terminating the petitioner's sub-tenancy / tenancy and calling upon the petitioner to vacate the premises by 31.05.2003. The petitioner filed a writ petition being WP(C) No.3364/2004 against the judgment dated 15.03.2003 passed by the learned Additional District Judge. In the said writ petition, this court vide its order dated 17.08.2004, observed that the findings arrived at in the impugned judgment dated 15.03.2003 *qua* M/s Mitsui & Company would not be binding on the petitioner.

5. Thereafter, fresh proceedings under the said Act were initiated by the UCO Bank against the petitioner by issuance of a show cause notice under Section 4 thereof which was duly served on the petitioner. The notice was replied to by the petitioner by its letter dated 07.10.2004. The said letter indicates that the petitioner had received the notice of termination dated 13.05.2003. At that stage, no plea of holding over was raised by the petitioner. After due opportunity of hearing being granted to the parties, the Estate Officer passed the eviction order dated 08.04.2005. It is in these circumstances that the petitioner preferred an appeal under Section 9 of the said Act before the learned Additional District Judge.

6. The aforesaid facts indicate that the petitioner has been enjoying the premises in question for over 35 years and the matter has gone through several rounds of litigation. All the facts and circumstances have been considered in detail by the learned Additional District Judge in the impugned order / judgment. The contentions on legal aspects have also been considered and examined in detail. It was contended by the learned counsel for the petitioner that other tenants against whom eviction proceedings have been initiated were allowed to continue on the basis of increased rents and, therefore, the petitioner also ought to be permitted to continue in occupation after a reasonable increase in rent. This aspect of the matter is purely within the domain of business decisions of the respondent bank. The learned counsel for the respondent bank, however, categorically stated that the premises in question was required by the bank for its own use and that the same would not be let out to any other party. He was even willing to give an undertaking to this effect. This makes the position clear that the bank is not interested in getting a higher rent for the said premises, but is interested in eviction so that the said premises could be utilised by the bank for its own use.

7. I have examined the impugned judgment in detail and I find that there is no jurisdictional error or legal infirmity of such a nature as would warrant interference in exercise of this court's jurisdiction under Article 226/227 of the Constitution of India.

Accordingly, the petition is dismissed with costs which are quantified at Rs.10,000/-.

BADAR DURREZ AHMED
(JUDGE)

April 02, 2007
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